

115TH CONGRESS
2D SESSION

H. R. 5619

To provide emergency funding for port of entry personnel and infrastructure,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 25, 2018

Mr. O'ROURKE (for himself and Ms. STEFANIK) introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committees on Ways and Means, and Appropriations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide emergency funding for port of entry personnel
and infrastructure, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Emergency Port of
5 Entry Personnel and Infrastructure Funding Act of
6 2018”.

7 **SEC. 2. DEFINITIONS.**

8 In this Act:

1 (1) ADMINISTRATOR.—The term “Adminis-
2 trator” means the Administrator of the General
3 Services Administration.

4 (2) COMMISSIONER.—The term “Commis-
5 sioner” means the Commissioner of U.S. Customs
6 and Border Protection.

7 (3) NORTHERN BORDER.—The term “Northern
8 border” means the international border between the
9 United States and Canada.

10 (4) RELEVANT COMMITTEES OF CONGRESS.—
11 The term “relevant committees of Congress”
12 means—

13 (A) the Committee on Environment and
14 Public Works of the Senate;

15 (B) the Committee on Finance of the Sen-
16 ate;

17 (C) the Committee on Homeland Security
18 and Governmental Affairs of the Senate;

19 (D) the Committee on the Judiciary of the
20 Senate;

21 (E) the Committee on Homeland Security
22 of the House of Representatives;

23 (F) the Committee on the Judiciary of the
24 House of Representatives; and

1 (G) the Committee on Transportation and
2 Infrastructure of the House of Representatives.

3 (5) SECRETARY.—The term “Secretary” means
4 the Secretary of Homeland Security.

5 (6) SOUTHERN BORDER.—The term “Southern
6 border” means the international border between the
7 United States and Mexico.

8 **SEC. 3. U.S. CUSTOMS AND BORDER PROTECTION PER-**
9 **SONNEL.**

10 (a) STAFF ENHANCEMENTS.—

11 (1) AUTHORIZATION.—In addition to positions
12 authorized before the date of the enactment of this
13 Act and any existing officer vacancies within U.S.
14 Customs and Border Protection on such date, the
15 Secretary, subject to the availability of appropria-
16 tions for such purpose, shall hire, train, and assign
17 to duty, by not later than September 30, 2023—

18 (A) 5,000 full-time U.S. Customs and Bor-
19 der Protection officers to serve on all inspection
20 lanes (primary, secondary, incoming, and out-
21 going) and enforcement teams at United States
22 land ports of entry on the Northern border and
23 the Southern border; and

24 (B) 350 full-time support staff for all
25 United States ports of entry.

1 (2) WAIVER OF FTE LIMITATION.—The Sec-
2 retary may waive any limitation on the number of
3 full-time equivalent personnel assigned to the De-
4 partment of Homeland Security in order to carry
5 out paragraph (1).

6 (b) REPORTS TO CONGRESS.—

7 (1) OUTBOUND INSPECTIONS.—Not later than
8 90 days after the date of the enactment of this Act,
9 the Secretary shall submit to the relevant commit-
10 tees of Congress a report that includes a plan for
11 ensuring the placement of sufficient U.S. Customs
12 and Border Protection officers on outbound inspec-
13 tions, and adequate outbound infrastructure, at all
14 Southern border land ports of entry.

15 (2) SUFFICIENT AGRICULTURAL SPECIALISTS
16 AND PERSONNEL.—Not later than 90 days after the
17 date of the enactment of this Act, the Secretary, in
18 consultation with the Secretary of Agriculture and
19 the Secretary of Health and Human Services, shall
20 submit to the relevant committees of Congress a re-
21 port that contains plans for the Department of
22 Homeland Security, the Department of Agriculture,
23 and the Department of Health and Human Services,
24 respectively, for ensuring the placement of sufficient
25 U.S. Customs and Border Protection agriculture

1 specialists, Animal and Plant Health Inspection
2 Service entomologist identifier specialists, Food and
3 Drug Administration consumer safety officers, and
4 other relevant and related personnel at all Southern
5 border land ports of entry.

6 (3) ANNUAL IMPLEMENTATION REPORT.—Not
7 later than one year after the date of the enactment
8 of this Act and annually thereafter, the Secretary
9 shall submit to the relevant committees of Congress
10 a report that—

11 (A) details the Department of Homeland
12 Security’s implementation plan for the staff en-
13 hancements required under subsection
14 (a)(1)(A);

15 (B) includes the number of additional per-
16 sonnel assigned to duty at land ports of entry,
17 classified by location;

18 (C) describes the methodology used to de-
19 termine the distribution of additional personnel
20 to address northbound and southbound cross-
21 border inspections; and

22 (D) includes—

23 (i) the strategic plan required under
24 section 5(a)(1);

1 (ii) the model required under section
2 5(b), including the underlying assump-
3 tions, factors, and concerns that guide the
4 decision-making and allocation process;
5 and

6 (iii) the new outcome-based perform-
7 ance measures adopted under section 5(c).

8 (c) SECURE COMMUNICATION.—The Secretary shall
9 ensure that each U.S. Customs and Border Protection of-
10 ficer is equipped with a secure 2-way communication and
11 satellite-enabled device, supported by system interoper-
12 ability, that allows U.S. Customs and Border Protection
13 officers to communicate—

14 (1) between ports of entry and inspection sta-
15 tions; and

16 (2) with other Federal, State, tribal, and local
17 law enforcement entities.

18 (d) BORDER AREA SECURITY INITIATIVE GRANT
19 PROGRAM.—The Secretary shall establish a program for
20 awarding grants for the purchase of—

21 (1) identification and detection equipment; and

22 (2) mobile, hand-held, 2-way communication de-
23 vices for State and local law enforcement officers
24 serving on the Southern border.

1 (e) PORT OF ENTRY INFRASTRUCTURE IMPROVE-
2 MENTS.—

3 (1) IN GENERAL.—The Commissioner may aid
4 in the enforcement of Federal customs, immigration,
5 and agriculture laws by—

6 (A) designing, constructing, and modi-
7 fying—

8 (i) United States ports of entry;

9 (ii) living quarters for officers, agents,
10 and personnel;

11 (iii) technology and equipment, includ-
12 ing technology and equipment deployed in
13 support of standardized and automated
14 collection of vehicular travel time; and

15 (iv) other structures and facilities, in-
16 cluding structures and facilities owned by
17 municipalities, local governments, or pri-
18 vate entities located at land ports of entry;

19 (B) acquiring, by purchase, donation, ex-
20 change, or otherwise, land or any interest in
21 land determined to be necessary to carry out
22 the Commissioner's duties under this section;
23 and

1 (C) constructing additional ports of entry
2 along the Southern border and the Northern
3 border.

4 (2) PRIORITIZATION.—In selecting improve-
5 ments under this section, the Commissioner, in co-
6 ordination with the Administrator, shall give priority
7 consideration to projects that will substantially—

8 (A) reduce commercial and passenger vehi-
9 cle and pedestrian crossing wait times at one or
10 more ports of entry on the same border;

11 (B) increase trade, travel efficiency, and
12 the projected total annual volume at one or
13 more ports of entry on the same border; and

14 (C) enhance safety and security at border
15 facilities at one or more ports of entry on the
16 same border.

17 (f) CONSULTATION.—

18 (1) LOCATIONS FOR NEW PORTS OF ENTRY.—
19 The Secretary shall consult with the Secretary of the
20 Interior, the Secretary of Agriculture, the Secretary
21 of State, the International Boundary and Water
22 Commission, the International Joint Commission,
23 and appropriate representatives of States, Indian
24 tribes, local governments, and property owners, as
25 appropriate, to—

1 (A) determine locations for new ports of
2 entry; and

3 (B) minimize adverse impacts from such
4 ports on the environment, historic and cultural
5 resources, commerce, and the quality of life of
6 the communities and residents located near
7 such ports.

8 (2) SAVINGS PROVISION.—Nothing in this sub-
9 section may be construed to—

10 (A) create any right or liability of the par-
11 ties described in paragraph (1);

12 (B) affect the legality or validity of any de-
13 termination by the Secretary under this Act; or

14 (C) affect any consultation requirement
15 under any other law.

16 (g) AUTHORITY TO ACQUIRE LEASEHOLDS.—Not-
17 withstanding any other provision of law, if the Secretary
18 determines that the acquisition of a leasehold interest in
19 real property and the construction or modification of any
20 facility on such leased property are necessary to facilitate
21 the implementation of this Act, the Secretary may—

22 (1) acquire such leasehold interest; and

23 (2) construct or modify such facility.

24 (h) AUTHORIZATION OF APPROPRIATIONS.—There is
25 authorized to be appropriated to carry out this section,

1 for each of the fiscal years 2018 through 2023,
2 \$1,000,000,000, of which \$5,000,000 shall be used for
3 grants authorized under subsection (d).

4 (i) OFFSET, RESCISSION OF UNOBLIGATED FED-
5 ERAL FUNDS.—

6 (1) IN GENERAL.—There is hereby rescinded,
7 from appropriated discretionary funds that remain
8 available for obligation on the date of the enactment
9 of this Act (other than the unobligated funds re-
10 ferred to in paragraph (4)), amounts determined by
11 the Director of the Office of Management and Budg-
12 et that are equal, in the aggregate, to the amount
13 authorized to be appropriated under subsection (h).

14 (2) IMPLEMENTATION.—The Director of the
15 Office of Management and Budget shall determine
16 and identify—

17 (A) the appropriation accounts from which
18 the rescission under paragraph (1) shall apply;
19 and

20 (B) the amount of the rescission that shall
21 be applied to each such account.

22 (3) REPORT.—Not later than 60 days after the
23 date of the enactment of this Act, the Director of
24 the Office of Management and Budget shall submit
25 to Congress and to the Secretary of the Treasury a

1 report that describes the accounts and amounts de-
2 termined and identified under paragraph (2) for re-
3 scission under paragraph (1).

4 (4) EXCEPTIONS.—This subsection shall not
5 apply to unobligated funds of—

6 (A) the Department of Defense;

7 (B) the Department of Veterans Affairs; or

8 (C) the Department of Homeland Security.

9 **SEC. 4. IMPLEMENTATION OF GOVERNMENT ACCOUNT-**
10 **ABILITY OFFICE FINDINGS.**

11 (a) BORDER WAIT TIME DATA COLLECTION.—

12 (1) STRATEGIC PLAN.—The Secretary, in con-
13 sultation with the Commissioner, the Administrator
14 of the Federal Highway Administration, State de-
15 partments of transportation, and other public and
16 private stakeholders, shall develop a strategic plan
17 for standardized collection of vehicle wait times at
18 land ports of entry.

19 (2) ELEMENTS.—The strategic plan required
20 under paragraph (1) shall include—

21 (A) a description of how U.S. Customs and
22 Border Protection will ensure standardized
23 manual wait time collection practices at ports of
24 entry;

1 (B) current wait time collection practices
2 at each land port of entry, which shall also be
3 made available through existing online plat-
4 forms for public reporting;

5 (C) the identification of a standardized
6 measurement and validation wait time data tool
7 for use at all land ports of entry; and

8 (D) an assessment of the feasibility and
9 cost for supplementing and replacing manual
10 data collection with automation, which should
11 utilize existing automation efforts and re-
12 sources.

13 (3) UPDATES FOR COLLECTION METHODS.—
14 The Secretary shall update the strategic plan re-
15 quired under paragraph (1) to reflect new practices,
16 timelines, tools, and assessments, as appropriate.

17 (b) STAFF ALLOCATION.—The Secretary, in con-
18 sultation with the Commissioner and State, municipal, and
19 private sector stakeholders at each port of entry, shall de-
20 velop a standardized model for the allocation of U.S. Cus-
21 toms and Border Protection officers and support staff at
22 land ports of entry, including allocations specific to field
23 offices and the port level that utilizes—

24 (1) current and future operational priorities
25 and threats;

- 1 (2) historical staffing levels and patterns; and
2 (3) anticipated traffic flows.

3 (c) **OUTCOME-BASED PERFORMANCE MEASURES.**—

4 (1) **IN GENERAL.**—The Secretary, in consulta-
5 tion with the Commissioner and relevant public and
6 private sector stakeholders, shall identify and adopt
7 not fewer than two new, outcome-based performance
8 measures that support the trade facilitation goals of
9 U.S. Customs and Border Protection.

10 (2) **EFFECT OF TRUSTED TRAVELER AND SHIP-**
11 **PER PROGRAMS.**—Outcome-based performance meas-
12 ures identified under this subsection should in-
13 clude—

14 (A) the extent to which trusted traveler
15 and shipper program participants experience
16 decreased annual percentage wait time com-
17 pared to nonparticipants; and

18 (B) the extent to which trusted traveler
19 and shipper program participants experience an
20 annual reduction in percentage of referrals to
21 secondary inspection facilities compared to non-
22 participants.

23 (3) **AGENCY EFFICIENCIES.**—The Secretary
24 may not adopt performance measures under this
25 subsection that—

1 (A) solely address U.S. Customs and Bor-
2 der Protection resource efficiency; or

3 (B) fail to adequately—

4 (i) gauge the impact of programs or
5 initiatives on trade facilitation goals; or

6 (ii) measure benefits to stakeholders.

7 (4) REPORT.—Not later than 90 days after the
8 date of the enactment of this Act, the Secretary
9 shall submit to the relevant committees of Congress
10 a report that identifies—

11 (A) the new performance measures devel-
12 oped under this subsection; and

13 (B) the process for the incorporation of
14 such measures into existing performance meas-
15 ures.

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